

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

Criminal No. 18-cr-194 (ADM/DTS)

v.

Kenneth Davon Lewis,

**DEFENDANT’S MOTION FOR
DAUBERT HEARING**

Defendant.

Defendant Kenneth Davon Lewis, through counsel, respectfully moves the Court for a hearing pursuant to *Daubert v. Merrill Dow Pharmaceuticals*, 509 U.S. 579, 592 (1993), for the Court to determine whether the government has met its burden of establishing that its use of the STRMix probabilistic genotyping software in this case rests on a foundation that “is scientifically valid.” *Id.*

STRMix software is a novel approach to de-convoluting (separating out for analysis) complex DNA mixtures. Some courts have admitted STRMix evidence after a *Frye* or *Daubert* hearing. At least two, however, in New York and Texas, have excluded testimony based on STRMix software DNA analysis and questioned its scientific validity as applied in those cases. *See, e.g.*, Decision and Order, *State v. Hillary*, New York County Court No. 2015-15 (Aug. 26, 2016). For this reason, and because STRmix is a novel technology, a *Daubert* hearing is appropriate here.

Dated: October 29, 2018

s/ Kevin C. Riach

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